

2000d-1, 4633, 4651-4655; 49 CFR 1.48-(b) and (cc) and part 24; 23 CFR 1.32.

### Subpart A—[Reserved]

### Subpart B—General Provisions and Project Procedures

#### § 712.201 Purpose.

This subpart prescribes Federal Highway Administration (FHWA) project provisions and procedures relating to the acquisition of real property for highway and highway related projects.

[39 FR 29591, Aug. 16, 1974]

#### § 712.202 Applicability.

(a) The provisions of § 712.203 of this subpart are applicable to all States and political subdivisions thereof that acquire real property for any highway or highway related project where Federal funds will participate in any part of the cost of the project.

(b) The provisions of § 712.204 of this subpart are applicable to all States and political subdivisions thereof where Federal funds will participate in any part of the right-of-way costs of the project.

[39 FR 29591, Aug. 16, 1974]

#### § 712.203 General provisions.

(a) *Real property interest to be acquired.* (1) On federally assisted highway projects, the acquiring agency shall acquire rights-of-way of such nature and extent as are adequate for the construction, operation, and maintenance of the project.

(2) Where State law permits, rights-of-way for Federal-aid highways shall be acquired in unlimited vertical dimension unless savings in the overall cost of a project, or other considerations in the public interest, such as plans for community development or multiple use, support the acquisition of rights-of-way of limited vertical dimension. Where the acquisition is in limited vertical dimension, the rights acquired shall be sufficient to encumber the unacquired realty with provisions which will ensure full use and safety of the highway facility to be constructed.

(3) Subsurface mineral rights may be reserved to the owner thereof where

the acquisition of such rights is not reasonably necessary for the construction, protection, support, and preservation of the highway facility to be constructed.

(b) *Use and occupancy of right-of-way.* (1) All real property, including airspace, within the right-of-way boundaries of a project shall be exclusively devoted to public highway purposes and preserved free of all public and private installations, facilities, and encroachments except as authorized by FHWA.

(2) Use of airspace for nonhighway purposes shall be in accordance with the provisions of 23 CFR part 713, subpart B.

(3) Joint development and multiple use of highway rights-of-way shall be in accordance with the provisions of Volume 7, Chapter 7, section 8, of the Federal-Aid Highway Program Manual.<sup>1</sup>

(4) Railroads and utilities may be accommodated in accordance with the provisions of 23 CFR part 645, subpart B.

(5) Bikeways and pedestrian walkways may be accommodated in accordance with the provisions of 23 CFR part 652.

(c) *Public information brochure.* The State highway department shall prepare a brochure adequately describing the land acquisition process under State law, and the owner's rights, privileges, and obligations thereunder. The information contained therein should be clearly presented in nontechnical terms to the extent practicable. Where appropriate, such brochure should be written in a language in addition to English.

(d) *Reviewing appraiser.* The reviewing appraiser shall place in the parcel file a signed and dated statement setting forth:

(1) The estimate of just compensation including, where appropriate, the allocation of compensation for the real property acquired and for damages to remaining real property, and an identification or listing of the buildings, structures and other improvements on

<sup>1</sup> Copy of this directive is available at FHWA offices listed in 49 CFR part 7, appendix D.